

CITY OF GAITHERSBURG
MINUTES OF A CITY COUNCIL MEETING
CITY HALL COUNCIL CHAMBERS
TUESDAY, FEBRUARY 19, 2013

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

The Pledge was led by Rita Pumphrey, Gaithersburg, Maryland.

III. INVOCATION

The invocation was led by the Reverend Thomas R. Pumphrey, Interdenominational Church of God, Gaithersburg, Maryland.

IV. APPROVAL OF MINUTES

A. Work Session Held January 28, 2013

Motion was made by Council Member Ashman, seconded by, Council Member Spiegel, that the minutes of the Mayor and Council work session held January 28, 2013, be approved.

Vote: 5-0

B. Regular Meeting Held February 4, 2013

Motion was made by Council Member Marraffa, seconded by, Council Member Sesma, that the minutes of the Mayor and Council regular meeting held February 4, 2013, be approved with an amendment.

Vote: 5-0

C. Fiscal Year 2014 Annual Budget Forum Held February 11, 2013

Motion was made by Council Member Spiegel, seconded by, Council Member Drzyzgula, that the minutes of the Mayor and Council Fiscal Year 2014 Annual Budget Forum held February 11, 2013, be approved.

Vote: 5-0

V. CONSENT ITEMS

A. Resolution of the Mayor and City Council Approving Amendments to the Personnel Rules & Regulations of the City of Gaithersburg

This resolution approved two amendments to Section 600 (Compensation) of the Personnel Rules & Regulations of the City of Gaithersburg as proposed by the City Manager: Section 608.3 Direct Deposit - to provide that an employee may elect to pick up a live (paper) paycheck in lieu of mailing in cases when a live check is issued due to the employee's initial enrollment in direct deposit or the employee making a change in direct deposit designations (i.e., before direct deposit takes effect) and Section 609.19 Canine Officer Pay - to provide that canine officer pay will be at the officer's overtime rate (1½ times his/her hourly rate of pay or compensatory time in lieu of pay) regardless of whether he/she works in excess of 40 hours during the work week. The amendments would become effective upon adoption of the resolution.

B. Resolution of the Mayor and City Council to Codify and Amend the Official Traffic Rules and Regulations

This resolution codified and amended the City's Official Traffic Orders which had established eleven (11) new traffic orders. Certain amendments, additions and deletions become necessary from time to time and this resolution allows all rules and regulations currently in effect in one document.

C. Resolution of the Mayor and City Council Authorizing the City Manager to Renew the 2012 Street Reconstruction Contract

This resolution is for a one (1) year renewal of the 2012 Street Reconstruction contract to perform the reconstruction of the following streets: Professional Drive, Bank Street, and East Diamond Avenue. The proposed project will include patching base failures and replacement of the concrete curbs and sidewalk to facilitate a two to four inch overlay. This option is less expensive than the removal and replacement of the entire pavement with a thicker pavement section. This resolution authorized the City Manager to renew the one (1) year contract with Olney Masonry Corporation, 6701 Ammendale Road, Beltsville, Maryland 20705, in an amount estimated to be Seven Hundred Seventy-Five Thousand Dollars (\$775,000), with an additional contingency of One Hundred Sixteen Thousand Dollars (\$116,000), for a total of Eight Hundred Ninety-One Thousand Dollars (\$891,000); said funds to be expended from the Capital Improvements Budget.

D. Resolution of the Mayor and City Council Authorizing the City Manager to Renew the 2012 Street Reconstruction Contract

This resolution is for a one (1) year renewal of the 2012 Street Resurfacing contract to perform the resurfacing of Municipal Lot 5 as well as the following streets: Gold Kettle Drive, Brighton Drive, Brighton Terrace, Brighton Lane, and Brighton Court. The resurfacing will include milling, curb and gutter repair, sidewalk and driveway repair, as well as an asphalt overlay with placement of a crack retarding fabric. This resolution authorized the City Manager to renew the contract for one (1) year with Olney Masonry Corporation, 6701 Ammendale Road, Beltsville, Maryland 20705, in an amount estimated to be Five Hundred Ninety-Six Thousand Dollars (\$596,000), with an additional contingency of Eighty-Nine Thousand Dollars (\$89,000), for a total of Six Hundred Eighty-Five Thousand Dollars (\$685,000); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Marraffa, seconded by, Council Member Spiegel, that the Consent Agenda (Resolution Nos. R-9-13 through R-12-13), be approved.

Vote: 5-0

VI. APPOINTMENTS

Resolution of the City Council Confirming Appointments and Reappointments to the Arts and Monuments Funding Corporation, Art in Public Places Subcommittee and Gaithersburg Book Festival Ad Hoc Committee, Economic and Business Development Committee, Environmental Affairs Committee, Olde Towne Advisory Subcommittee, Police Advisory Committee and Transportation Committee

This resolution confirmed the following: Gaithersburg Ad Hoc Book Festival Committee (appointments), Kathy Crutcher, 1977 Biltmore Street, NW, Washington, DC 20016, Brenda Currin, 6806 Allview Drive, Columbia, Maryland 21046, Garinè Isassi, 12117 Pueblo Road, Gaithersburg, Maryland 20878, Jennifer Nicholson, 321 Prettyman Drive, Rockville, Maryland 20850, and Paul Stankus, 512 Saddle Ridge Lane, Rockville, Maryland 20850, indefinite term; Olde Towne Advisory Subcommittee (appointments), Robert Love, 107 James Street, Gaithersburg, Maryland 20877, indefinite term; Police Advisory Committee (appointments), Victor Guerrero, 4827 Rugby Avenue, Suite 201, Bethesda, Maryland 20814, Rada Puri, 248 Perrywinkle Lane, Gaithersburg, Maryland 20878, and Douglass H. Wagner, 37 S. Summit Avenue, Gaithersburg, Maryland 20877, two-year terms; Art in Public Places Subcommittee (reappointments), Judy Gross, 446 Tschiffely Square Road, Gaithersburg, Maryland 20878, two-year term; Arts and Monuments Funding Corporation (reappointments), Mary Fehlig, 1 Arch Place, #421, Gaithersburg, Maryland 20878, Toni Lieberman, 18 Apricot Court, North Potomac, Maryland 20878, and Sigrid McCutcheon, 142 Lake Street, Gaithersburg, Maryland 20878, two-year terms; Environmental Affairs Committee (reappointments), John Hudson, 214 Tulip Drive, Gaithersburg, Maryland 20877, two-year term; Economic and Business Development Committee (reappointments), Raymond T. McKenzie, 800 South Frederick Avenue, Suite

104, Gaithersburg, Maryland 20877, two-year term; and the Transportation Committee (reappointments), Larry Seeger, 1015 Bayridge Terrace, Gaithersburg, Maryland 20877 and Jerry M. Stringham, 162 Chevy Chase Street, Gaithersburg, Maryland 20878, two-year terms.

Motion was made by Council Member Ashman, seconded by, Council Member Sesma, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING APPOINTMENTS AND REAPPOINTMENTS TO THE ARTS AND MONUMENTS FUNDING CORPORATION, ART IN PUBLIC PLACES SUBCOMMITTEE AND GAITHERSBURG BOOK FESTIVAL AD HOC COMMITTEE, ECONOMIC AND BUSINESS DEVELOPMENT COMMITTEE, ENVIRONMENTAL AFFAIRS COMMITTEE, OLDE TOWNE ADVISORY SUBCOMMITTEE, POLICE ADVISORY COMMITTEE AND TRANSPORTATION COMMITTEE (Resolution No. R-13-13), be approved.

Vote: 5-0

VII. STAFF GUIDANCE

Noted: Mayor Katz moved the following Staff Guidance items up on the agenda.

A. Update on the 2013 State Legislative Session and the City's Legislative Priorities

Intergovernmental Affairs Coordinator Sanchez mentioned that the 430th Legislative Session began on January 9, 2013. Reported that Governor Martin O'Malley formally submitted his proposed budget to the General Assembly on January 16, 2013. The proposed budget includes an additional \$15.3 million in Highway User Revenue (HUR) for municipalities and full funding at an estimated \$9 million of state aid for police protection. On October 15, 2012, the Mayor and City Council approved the City's legislative priorities. An updated was provided for the following:

1. Ethics - Financial Disclosure by Local Elected Officials, work group continuing to look at the financial disclosure requirements. Both Council Member Ashman and City Attorney Board are working with the group on the amendments to allow some flexibility for elected officials.
2. Municipalities – Legal Notice Requirements – Posting on Websites, staff continuing to pursue and incorporate amendments to the legislation.
3. Vehicle Laws – Speed Monitoring Systems – Enforcement, staff (Police Sergeant Scarff) plan to attend the hearing in Annapolis. This law would allow certified technicians to sign off on speed camera violations.
4. City Bond Bill Request, reported that Senator Jennie Forehand and Senator Nancy King are co-sponsors for the City's Bond Bill to allow \$150,000 for improvements to the entry way at the City's Miniature Golf Course. Thanked Parks, Recreation and Culture Director Potter and staff for assisting with the request.
5. Transportation Funding, reported that several proposals were submitted. Mentioned that funds have been depleted and expressed concern with the lack of funds for future projects. Reported that Senator Mike Miller proposed a transportation plan that would impose a sales tax on gasoline, as well as allow counties to add a .5 cent tax to the existing 23.5 cent per gallon tax in their areas. Said tax would go into the general fund.
6. Other bill – SB 829 – constitutional amendment that would put a lock box on the transportation trust fund. In addition, Council Member Marraffa testified in support of a bill on sustainable communities that would allow those communities to be treated the same as transit oriented development.

B. Opportunity Grant Fund Application

Maureen Herndon, Division Chief, Community Services stated that the Community Advisory Committee received and reviewed four applications for grant consideration and recommended funding in the amount of \$5,000 to Gaithersburg HELP for its transportation program, which will provide assistance to more than 55 City residents needing transportation to medical, mental health and/or social service appointments. In the FY 13 budget, up to

\$50,000 was authorized to provide grants to nonprofit organizations for program(s)/service(s) that are new, innovative, and/or address emerging needs or special opportunities for City of Gaithersburg residents. Two of the remaining applications are still under review.

Motion was made by Council Member Drzyzgula, seconded by, Council Member Marraffa, that the recommended funding to Gaithersburg HELP, be approved.

Vote: 5-0

VIII. PRESENTATIONS

A. **Proclamation of the Mayor and City Council Designating February as African American History Month in the City of Gaithersburg**

African American History Month is celebrated every February. Dr. Carter G. Woodson began this celebration in 1926 as an effort to focus national attention on the important contributions African-American citizens contributed to the history of their country. The City's Multicultural Affairs Committee selected African-American achievements as their theme in commemorating this year's celebration during a reception held at City Hall. At the reception, winners of an elementary school student essay contest read essays they wrote based on this theme, and were presented awards. The achievements of Reverend Thomas R. Pumphrey were also celebrated. Mr. Pumphrey was a member of the first class to integrate Sherwood Junior/Senior High School. Immediately after high school, he served four years in the Air Force, completing a tour in Vietnam. Mr. Pumphrey also served over twenty years with Montgomery County Public Schools, working as a custodian, instructional assistant, teacher and later a principal. He is currently the Senior Pastor at the Interdenominational Church of God in Gaithersburg, Maryland. Charlemagne Orisme, Chair Multicultural Affairs Committee joined Mayor Katz to issue the proclamation.

B. **2012 Fourth Quarter Employee Recognition Awards**

The winner of the Fourth Quarter Team Recognition Award was the Emergency Overnight Shelter Management Team comprised of Adam Goldstein, Terrilyn Lahs, April Outman, Tim Smith (not present), Gardner Torrence (not present), and Pam Truxal from the Department of Parks, Recreation and Culture. The team was recognized for becoming willing emergency personnel and rising to the challenges of operating an overnight shelter during Superstorm Sandy in October 2012.

C. **Gaithersburg Police Department Awards for Supervisor of the Year and Officer of the Year**

Chief Sroka gave brief remarks and presented to members of the Gaithersburg Police Department, a plaque and certificate for their respective categories: 2012 Officer of the Year Officer Gregg Johannesen and Supervisors of the Year Sergeant Shawn Eastman and Sergeant Chris Vance.

D. **Presentation of Draft Request for Proposal (RFP) for 315 East Diamond Avenue and the Olde Towne Plaza**

Planning and Code Administration Director Schlichting joined by Economic Development Director Lonergan gave a PowerPoint presentation providing an overview of the draft RFP for 315 East Diamond Avenue and the Olde Towne Plaza. It was noted that it is the third RFP for the site and clarified that the subject site does not include the Winkler property. The presentation covered the proposed draft design criteria for the building and plaza, including building and landscape architectural design, use of the building and plaza, as well as evaluation criteria and next steps. The project was outlined with a vision for a mixed-use project with ground-level retail and/or restaurant space, multi-purpose community space and/or arts space, and the expansion of the existing plaza at the corner of North Summit and East Diamond Avenues. The project goals encourage highly distinctive and unified design for both the public plaza and future building; create and invite public space with public art and provide year-round interest; signature architecture for a mix of uses, but not limited to restaurants, retail, and art space; and preserve views of the City's History Park and Train Museum. Staff is aware of the concerns of neighboring property owners, businesses and residential regarding public parking and the cost burying utilities along the North Summit and East Diamond Street frontage.

The Draft RFP will be revised, if necessary, to include feedback from the Mayor and City Council as well as the

Olde Towne Advisory Committee. Staff plans to issue a formal RFP by March 1st, proposals due by April 15th for the Selection Committee to review and score submissions and the recommendation of the winning bidder by May 1st.

Staff was asked to clarify that the Plaza is not an amenity of the building except to the extent of public use in the building. Additional parking spaces were suggested. All concurred to move forward with the RFP.

The following employees were recognized for their involvement: Lauren Pruss, Planning Director, Wes Rhodes, Procurement Officer, and Cindy Hines, Assistant to the City Manager.

E. Presentation on the Terms of a Proposed Sixth Amendment to Annexation Agreement (X-129) for the MedImmune Properties

The City annexed approximately 212 acres of land into its corporate boundaries in 1982 (X-129) and entered into an Annexation Agreement with General Electric Information Services Company, the owner of the property at that time, for development of the annexed lands. The Annexation Agreement has been amended five times since the original agreement with the most recent amendment occurring in 2002. MedImmune, the current owner of approximately 62.6 acres of the land within the annexed area, is seeking a sixth amendment to the Annexation Agreement in order to amend the conditions under which the MedImmune Properties may be developed in the future.

MedImmune proposed a sixth amendment to the Annexation Agreement (X-129) modifying the conditions under which MedImmune may develop the properties it owns within the area subject to prior Annexation Agreements for X-129. City Attorney Board noted that an amendment to an annexation agreement is a contractual negotiation between the parties and does not have formal public hearing requirements. In addition, when MedImmune chooses to further develop its property, a formal SDP and site plan processes would be required, which would include public hearings.

City Attorney Board provided background on the annexation. MedImmune, LLC owns approximately 62.6 acres of land in the annexed area, to include:

- 101 Orchard Ridge Drive (Parcel N295, the “Summit”, 8.42 acres)
- Orchard Ridge Drive (Parcel N254, part of the “Ridges”, 9.07 acres)
- 1 MedImmune Way (Parcel N454, part of the “Ridges”, 22.8 acres)
- Quince Orchard Road (Parcel N432, part of the “Ridges”, 4.92 acres)
- Quince Orchard Road (Parcel N550, the “Meadows”, 17.39 acres)

Under the existing Annexation Agreement and Amendments thereto, MedImmune is entitled to develop its properties as follows:

- The Ridges
 - Existing Built – 818,000 square feet; Office/Lab use
 - Current Allowable – 855,000 square feet at 4 – 7 stories; Office/Lab use
- The Summit
 - Existing Built – 102,000 square feet; Office use
 - Current Allowable – 106,000 square feet at 3 stories; Office use
- The Meadows
 - Existing Built – 0 square feet; Office/Retail use
 - Current Allowable – 150,000 – 325,000 square feet at 3 – 8 stories; Office/Retail use
- Overall Proposed Development
 - Existing Built – 920,000 square feet
 - Current Allowable – 1,111,000 - 1,266,000 square feet

The amendments include the following proposed terms and conditions:

1. **Density** - Revising the density of development allowed on the MedImmune properties to remove the existing square foot limitations and instead impose the density permitted under the MXD zone in effect at the time of the Amendment or a floor area ratio (FAR) of 0.75. In calculating density, the FAR would be calculated so that the density is not reduced by any dedications, reservations or acquisitions for public use

and shall include the City-owned parcels (approximately 11.7 acres of land) within the annexation area. In addition, MedImmune would seek rezoning of the Summit property from the I-3 zone to MXD and would not be subject to the maximum percentage requirements for various uses in the MXD zone. This would result in total allowable density of 2,426,000 square feet of development.

2. **Meadows Development Limitations** - Development of the Meadows property would be limited to a total of 300,000 (down from 325,000) square feet of building of lab/office use (instead of office/retail use), with a height of 3 – 5 stories (instead of 3 – 8 stories). The set back requirement for the Meadows would include a minimum 100 foot setback for buildings and structured parking and 50 feet for surface parking. Trees, vegetation and adequate screening would be required along Orchard Ridge Drive.
3. **Concept Bubble Plan** – MedImmune would submit a Concept Bubble Plan with the Amendment which, in addition to the height reductions for the Meadows described above, would change the height limitations for the Ridges from 4 – 7 stories to 4 – 9 stories and for the Summit from 3 stories to 4 – 7 stories. The allowable uses for the Summit would be changed from Office to Office/Lab.
4. **Orchard Ridge Drive Parking** - MedImmune would contribute up to \$350,000 to assist the City to develop additional on-street parking along Orchard Ridge Drive. It is anticipated that 15 – 20 spaces could be accommodated. The City would manage the design and construction of these improvements.
5. **Park Dedication** – At the time of Schematic Development Plan approval for the Meadows, MedImmune would dedicate an approximately 6.5 acre parcel in the Meadows to the City for use as open space/parkland and would contribute \$200,000 to the City for park improvements on this parcel.
6. **Transportation Improvements** - In lieu of being subject to the City's APFO requirements for transportation, MedImmune would be responsible for all transportation requirements necessary for its development within the general boundaries of the MedImmune and Quince Orchard Park properties. In addition, for any development that exceeds 138,518 square feet of new building area (which is exempted under the current Agreements), MedImmune will pay to the City \$4.00 per square foot of approved building area at the time of final site plan to be used for transportation network improvements that benefit the general transportation area surround the MedImmune Properties. Note that under the current Annexation Agreements, MedImmune is exempt from APFO requirements.
7. **Pedestrian Bridge** - MedImmune would contribute up to \$4 million for the design and construction of a pedestrian bridge crossing Great Seneca Highway, provided the project is commenced by December 31, 2023. This construction, to the extent possible, would be coordinated with the CCT.
8. **Parking Requirements** – The parking standard for future development of the MedImmune properties would be one space for every 400 square feet of gross floor area. The exception to this standard would be one space for every 325 square feet of gross floor area for the Meadows if ownership of this property is transferred to an entity unrelated or unaffiliated with MedImmune.
9. **Code Applicability** – With the exception of APFO requirements, the development of the MedImmune properties would be subject to current City Codes and regulations in place at the time of any application submittal.
10. **Term of Agreement** – The terms of the Sixth Amendment to Annexation Agreement would remain in place until January 1, 2053.

In an effort to provide public outreach, MedImmune emailed a letter to the Quince Orchard Park Community Manager detailing the terms of the proposed Amendment and requested that the letter be shared with the neighborhood. In addition, MedImmune representative attended the Quince Orchard Park Council in the Communities meeting held on February 12, 2013. On February 12, 2013, City staff also sent postcards notifying residents and businesses of this matter before the Mayor and City Council and invited public comment.

Staff prepared a resolution to come before the Mayor and City Council later on the agenda for the above matter.

IX. PUBLIC COMMENTS

Joe Allan, Gaithersburg resident, spoke on the MedImmune development and the proposed amendments to the above mentioned annexation agreement. He expressed concern with the waiver of the APFO, analysis of the traffic impact, use of dedicated funds, and pedestrian and bicycle traffic.

X. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Member Drzyzgula

1. Apologized for not being at the African American History Month reception held earlier due to testifying in Annapolis on the requirement of newspaper and legal notices.
2. Reported that she and colleagues travelled to Annapolis on Saturday, February 16th for an opportunity to speak to legislators about the City's priorities. The City provided a bus for interested residents.
3. Attended the State Watershed Improvement Plan meeting in Annapolis and participated on a task force working to refine regulations that are proposed for accounting for growth.
4. Attended the Quince Orchard Council in the Communities meeting.

Council Vice President Sesma

1. Announced that the City will hold a public meeting on Wednesday, February 20, 2013 at 7:00 p.m. at the Activity Center at Bohrer Park, Summit Hall Farm, 506 South Frederick Avenue. The proposed meeting is to solicit comments on the use of Community Development Block Grant (CDBG) funding, available to the City through the U.S. Department of Housing and Urban Development (HUD). Contact Louise Kauffmann at lkauffmann@gaithersburgmd.gov or **301- 258-6320** for more information.
2. Congratulated the recipients that received awards earlier in the meeting.
3. Attended the African American History Month reception and recognized the readings by Gaithersburg's youth.
4. Attended the Council in the Communities meeting with the Quince Orchard Park community. Residents expressed concern with pedestrian safety and asked that the State Highway Administration address the issues of the intersection at Great Seneca Highway.
5. Thanked the District 17 Delegation for hosting the reception mentioned above and thanked the Governor for stopping in.
6. Reported that he gave testimony on behalf of the National League of Cities to the Subcommittee on Environmental and Economy. The topic discussed was infrastructure in relation to water and the impact on funding for cities to finance such improvements and construction. Stated there is an issue with managing infrastructure and the fiscal pressure. Encouraged Congress to look at the financing mechanisms that the Federal Government offers to local governments to manage such facilities.

Council Member Marraffa

1. Attended the District 17 Legislative Session and spoke on the speed on Intercounty Connector. Reported that the speed will increase to 60 mph.
2. Reported that a closed executive session was held at City Hall on Monday, February 4, 2013 at 9 p.m., to discuss the expansion of a local business. The session was held pursuant to the State Government Article of the Annotated Code of Maryland Section 10-508(a)(4) to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State. Present at the meeting were Mayor Katz, Council Members Ashman, Drzyzgula, Marraffa, Sesma, and Spiegel, City Manager Tomasello, City Attorney Board, Planning and Code

Administration Director Schlichting, and Economic Development Director Loneragan. Upon conclusion of the discussion, the closed meeting was adjourned at approximately 9:30 p.m.

3. Attended the African American History Month reception held this evening.

Council Member Spiegel

1. Echoed comments about the reception held earlier, the District 17 Delegation reception, the quarterly team recognition and the Gaithersburg Police award recipients.
2. Thanked the Quince Orchard Park community for hosting the meeting mentioned above.
3. Reported that many issues are being addressed in Annapolis and elected officials and staff are working to represent and serve the Gaithersburg community.
4. Announced that the Maryland Municipal League Annual Montgomery Chapter meeting will be held this week and will report back on the concerns being addressed.
5. Announced that the U.S. General Services Administration is hosting a webinar on programs such as green purchasing and other matters.
6. Wished Council Vice President Sesma a Happy Birthday!
7. Announced that the Mayor and City Council will conduct their Annual Planning Retreat on February 25, 2013, 6:30 p.m., at the Gaithersburg Upcounty Senior Center. The Planning Retreat will be held in lieu of a work session. The session will not be televised. The retreat is open to the public, but public comment will not be taken during the session. For more information including the agenda, visit the City's website or contact the City Manager's Office at **301-258-6310**.

Council Member Ashman

1. Congratulated the award recipients recognized earlier in the meeting.
2. Reported that he and colleagues had the opportunity to tour the soon to open Gaithersburg High School which is very impressive.
3. Reported on the submissions received for the upcoming Gaithersburg Book Festival scheduled for May 18th.

Mayor Katz

1. Announced that the Board of Elections for Montgomery County has scheduled a public hearing for Saturday, March 2, 10 a.m. The Board will discuss the decision to dismiss Gaithersburg Elementary School as a polling place for Gaithersburg residents. Gaithersburg officials will testify at the hearing.
2. Next regular meeting is scheduled for Monday, March 4th

XI. FROM THE CITY MANAGER

1. Reported that bids were received for the City's new website design.
2. Provided an update for the Rolling Stock project which includes Olde Towne renovations and work on the Budd Car and Caboose.
3. Mentioned the Gaithersburg Aquatic Center construction. The center has been closed for over a year and the City recently received the notice to proceed to with the structural phase. The scheduled completion date is on or before July 15th, 2013. Reported that the Memorandum of Understanding still has to be agreed on.

4. Reported that the County is seeking to expand its smoking legislation in various areas of their properties. Questioned whether the City wanted to pursue similar legislation. Staff will provide an update.

XII. ECONOMIC DEVELOPMENT UPDATE

Economic Development Director Loneragan

1. Toured the Kentlands area for arts designation with members from the Kentlands Downtown Partnership and several members of the Maryland State Arts Council. A determination is expected shortly.
2. Reported that Stedman and Company announced their relocation to Gaithersburg to 9711 Washingtonian Blvd. using the toolbox application for upgrade cost. Several other leases have been completed over the last two months moving the building's occupancy rate from 44 to 66% since December 2012.

XIII. ORDINANCES, RESOLUTIONS, AND REGULATIONS

A. Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate and Execute an Economic Development Incentive Agreement With Sodexo, Inc.

This resolution authorized the City Manager to complete negotiations and execute the documents needed to move forward with the above mentioned agreement. Sodexo, Inc. is a leading provider of integrated food and facilities management services that employs about 563 workers at its current North American headquarters location in Gaithersburg. The company renewed their lease for 170,000 square feet of space at 9801 Washingtonian Boulevard and has requested that the City, together with the State of Maryland and Montgomery County, provide limited funding to support the Company's retention within the City and employment expansion plans. It is anticipated that the City would provide a grant of up to \$500,000. If approved, staff will prepare an economic development incentive agreement containing the expectations and conditions of both parties relating to the award of the financial incentives.

Motion was made by Council Member Sesma, seconded by, Council Member Spiegel, that the RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT WITH SODEXO, INC. (Resolution No. R-14-13), be approved.

Vote: 5-0

B. Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate and Execute a Sixth Amendment to Annexation Agreement (X-129) for the MedImmune Properties

This resolution authorized the City Manager to Negotiate and Execute a sixth amendment to the Annexation Agreement as presented earlier in the meeting. MedImmune had requested to expedite the matter due to their scheduled building process. It was suggested to modify the resolution to allow for negotiations and bring back authorizing the City Manager to execute at a later day. Staff was asked to take public comments into consideration during the process. Section 10 of the agreement was questioned. City Attorney Board clarified the impact tax for bioscience facilities which are exempted under the county ordinance. The section addresses the exception possibly going away at a future date. Staff was directed to provide information on the dollar amounts. The deadline for the public to submit comments is Friday, February 22nd.

Motion was made by Council Member Spiegel, seconded by, Council Member Sesma, a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A SIXTH AMENDMENT TO ANNEXATION AGREEMENT (X-129) FOR THE MEDIMMUNE PROPERTIES (Resolution No. R-15-13), be approved to negotiate only and bring back on the next regular meeting agenda for approval to execute.

Vote: 5-0

- A. **ASK-1746-2013 – CarMax, an Application to Amend the Sketch Plan for 13.66 Acres of Land in the MXD (Mixed Use Development) Zone, in Accordance With § 24-198 of the City Code. The Plan Proposes 25,000 Square Foot Automotive Sales Center and a 225,000 Square Foot Office/Commercial Building. The Property is Located at 16331 Shady Grove Road in the City of Gaithersburg, Maryland**
- B. **SDP-1747-2013 – CarMax, an Applicant Requests Approval of Schematic Development Plan, SDP-1747-2013, in Conjunction With Amendment to Sketch Plan ASK-1746-2013. The Property is Located at 16331 Shady Grove Road in the City of Gaithersburg, Maryland. The Plan Proposes a 25,000 Automobile Sales Center on 13.66 Acres of Land Located in the MXD (Mixed Use Development) Zone**

Community Planning Director Schwarz presented the above consolidated public hearing duly advertised in The Gaithersburg Gazette on January 20 and February 6, 2013. The applicant, CarMax Auto Superstores, Inc., submitted an application to amend Sketch Plan ASK-1746-2013, in the Mixed Use Development (MXD) Zone for approximately 13.66 acres of property. The property is the former location of the Great Indoors and Sears Warehouse in the City of Gaithersburg, Maryland. The amendment proposed a 25,000-square foot Automotive Sales Center and a 225,000-square foot Office/Commercial Building. The property is the subject of a Schematic Development Plan (SDP-1747-2013).

Bob Dalrymple and Erin Girard of Linowes and Blocher, representing the applicant provided history on the site and the proposed redevelopment plan. The firm represented Sears in 2012 to annex the property into the City. The property was zoned MXD at the time of annexation. The county attempted to block the residential use of the property. Great Indoors did not want the property to sit with the current market conditions. CarMax Auto Superstores, Inc. submitted an amendment to the sketch plan application and schematic development plan application. Carmax is seeking feedback to move forward. The redevelopment is being proposed to be done in two phases. Other speakers included JM Dixon and Brian Maslyk from CARMAX and Matt Jones from Bohler Engineering.

The site plan was further reviewed highlighting the location, renderings of the building, the ingress and egress, greenspace and landscaping, buyer retention areas, stormwater management, lighting, designate parking areas, vehicle staging area, sustainable design with LEED certification, and the architectural design and materials.

Members of the City Council and Planning Commission questioned the parking, car inventory, route for transporters, impervious fields, demolition of existing building and the recycling of materials.

There were no other speakers at the hearing.

Motion was made by Commissioner Kaufman, seconded by Commissioner Lanier, that the Planning Commission hold their record on ASK-1746-2013 open until 5 p.m. on Wednesday, March 13, 2013, with anticipated recommendation on Wednesday, March 20, 2013.

Vote: 4-0

Motion was made by Council Member Drzyzgula, seconded by Council Member Marraffa, that the City Council hold their record on ASK-1746-2013 open until 5 p.m. on Thursday, March 21, 2013, with anticipated policy discussion on Tuesday, April 2, 2013.

Vote: 5-0

Motion was made by Commissioner Kaufman, seconded by Commissioner Lanier, that the Planning Commission hold their record on SDP-1747-2013 open until 5 p.m. on Wednesday, March 13, 2013, with anticipated recommendation on Wednesday, March 20, 2013.

Vote: 4-0

Motion was made by Council Member Spiegel, seconded by Council Member Drzyzgula, that the City Council hold their record on SDP-1747-2013 open until 5 p.m. on Thursday, March 21, 2013,

with anticipated policy discussion on Tuesday, April 2, 2013.

Vote: 5-0

XV. FROM THE CITY ATTORNEY AND OTHER STAFF

No report from staff.

XVI. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 9:45 p.m.